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January 17, 2003

RECEIVED

JAN 17 2003

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Petition for Rulemaking
Duquesne, Altoona and Williamsburg,
Pennsylvania

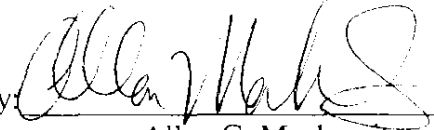
Dear Ms. Dortch:

On behalf of Keymarket Licenses, LLC, we are herewith filing an original and four (4) copies of its "Petition for Rulemaking" to substitute Channel 252B1 for Channel **252A** at Duquesne, Pennsylvania and modify the license of Radio Station WOGL(FM) accordingly; and reallocate Channel 251B from Altoona, Pennsylvania to Williamsburg, Pennsylvania, and modify the license of Radio Station WFGY(FM) accordingly.

Should any questions arise with respect to this matter, please contact the undersigned counsel.

Respectfully submitted,

KAYE SCHOLER LLP

By: 
Allan G. Moskowitz

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FM Audio - MB

BEFORE THE
Federal Communications Commission

WASHINGTON D.C. 20554

RECEIVED

In The Matter of)

JAN 17 2003

Amendment of Section 73.202(b)
of the Commission's Rules
FM Table of Allotments)

MM Docket No.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RM-_____

(Duquesne, Altoona and
Williamsburg, Pennsylvania))

TO: Chief, Allocations Branch)

PETITION FOR RULEMAKING

Keymarket Licenses LLC, ("Keymarket") by its counsel, and pursuant to Section 303 of the Communications Act of 1934, as amended, hereby requests that the Federal Communications Commission ("FCC" or "Commission") amend Section 73.202(b) of the Commission's Rules to (1) substitute Channel 252B1 for Channel 252A at Duquesne, Pennsylvania and modify the license of Radio Station WOGI(FM) accordingly and (2) reallocate Channel 251B from Altoona, Pennsylvania to Williamsburg, Pennsylvania as that community's first local service and modify the license of Radio Station WFGY(FM) accordingly. In support thereof, the following is respectfully shown:

1. Keymarket is the licensee of Radio Station WOGI(FM), Duquesne, Pennsylvania which is currently licensed to operate on Channel 252A. The instant petition proposes to upgrade WOGI(FM) to a Class B1 facility. Radio Station WFGY(FM), Altoona, Pennsylvania is currently licensed to operate on Channel 251B. As indicated by the attached Engineering Statement of William J. Getz of Carl T. Jones Corporation, the substitution of Channel 252B1 for Channel 252A at Duquesne, Pennsylvania requires that Channel 251B be reallocated from Altoona to Williamsburg, Pennsylvania as that community's first local service and that WFGY's

license be modified accordingly. Additionally, Keymarket requests a change in the allotment reference coordinates for the vacant, open allotment of Channel **253A** at Meyersdale, Pennsylvania.

2. Attached hereto as Exhibit 1 is the letter of consent signed by Carol B. Logan, President of Forever of PA, Inc., Managing Member of Forever of **PA**, LLC, licensee of Radio Station WFGY(FM) consenting to the reallocation of the channel from Altoona, Pennsylvania to Williamsburg, Pennsylvania, and the modification of the station's license accordingly. Further, in the event the grant of the instant proposal necessitates the relocation of WFGY(FM)'s transmitter site, Keymarket shall reimburse Forever of PA, LLC for any and all relocation expenses.¹

3. Williamsburg, Pennsylvania is located in Blair County, Pennsylvania and was founded in 1790. Williamsburg had a 2000 U.S. Census population of 1,045 persons and was incorporated as a borough in the late 1800s. The borough has an elected seven member council presided over by an elected mayor. Williamsburg provides police, fire, water, and sewage services to the community. Moreover, Williamsburg has its own school district which consists of an elementary school (grades K-6) and a high school (grades 7-12). Williamsburg has fourteen churches of various denominations, a Lions Club, a woman's club and VFW and American Legion Posts. Williamsburg has its own post office and zip code, i.e., 16693, and its own Public Library. Because of its long history, Williamsburg has its own Heritage Historical Society and possesses many sites of historical significance. Williamsburg also has numerous retail establishments including pharmacies, restaurants, etc. (See Exhibit 1 attached for information

¹ Keymarket Licenses, LLC and Forever of PA, LLC are commonly owned and Ms Logan's letter of consent is being submitted in an abundance of caution.

regarding Williamsburg, Pennsylvania). Williamsburg, therefore, has the social, economic and governmental indices to qualify as a community for allotment purposes. FM Channel Assignments (Biltmore Forest, North Carolina) 63 RR 2d 251 (1987). However, no **AM** or FM stations are currently licensed to Williamsburg, either commercial or non-commercial. Consequently, the reallocation of Channel 251 B to Williamsburg will constitute the community's first local service.

4. Furthermore, full-service Radio Stations WRTA(AM), WFBG(AM), WVAM(AM) and WPRR(FM) will remain as facilities licensed to Altoona, Pennsylvania and will continue to serve the community. Consequently, the proposed reallocation of Channel 251B from Altoona to Williamsburg and the modification of WFGY(FM)'s license will not leave Altoona bereft of local service.

5. The proposed reallocation complies with the Commission's Rules and would serve the Commission's allotment priorities and public interest. In Amendment of the Commission's Rules Regarding Modification of FM and TV and Authorizations to Specify a New Community of License, 4 FCC Rcd. 4870 (1989), recons. granted in part, 5 FCC Rcd. 7094 (1990), the Commission stated that the proposed channel must be mutually exclusive with the existing channel and the new community must be preferred over the existing community under the Commission's allotment priorities. Since we are proposing the reallocation of the Channel 251B1 from Altoona, Pennsylvania to Williamsburg, Pennsylvania, the proposal is mutually exclusive with the current use of Channel 251B1.

6. Further, the new community, Williamsburg, will obtain a first local service whereas Altoona, Pennsylvania will still be provided service by three **AM** stations and one FM station. Under the Commission's allotment criteria, a first local service is preferred over

additional local services. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).

7. The substitution of Channel 252B1 for Channel 252A at Duquesne, Pennsylvania and the relocation of Channel 251B to Williamsburg from Altoona, Pennsylvania will provide significant public service benefits. **As** indicated by Table I of the attached Engineering Statement, the proposal will result in a net gain by WOGI(FM) of 2,314 kilometers in area and 224,776 persons, while the combined gain area of both the WOGI(FM) substitution and the WFGY(FM) relocation will result in a net gain of 2,314 square kilometers and 156,479 persons. Significantly the proposed arrangement of allotments will add a new aural service to a large, presently under-served area of 1,149 kilometers including 19,382 persons. Finally, as previously indicated, Williamsburg must be preferred for a first local service.

8. Petitioner hereby states that should the Commission grant the instant proposal to substitute Channel 252B1 for Channel **252A** at Duquesne, Pennsylvania and modify the license of Radio Station WOGI(FM) accordingly, Petitioner will file an application for the new facility and will implement the application expeditiously. Furthermore, as indicated by the attached letter of consent from Keymarket of PA, LLC, that licensee has represented that it will file any necessary application to implement the granted proposal.

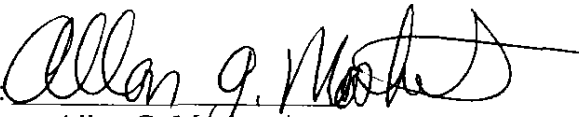
9. Keymarket submits that the instant proposal provides many public service benefits. First, the reallocation of Channel 251B from Altoona to Williamsburg, Pennsylvania will provide that community with a first local aural service. Further, the proposal will allow Radio Station WOGI(FM) to upgrade to a class B1 facility. **As** indicated in the attached Engineering Statement, there will be a significant net gain in both area and population by the

granted instant proposal and, in fact, there will be a significant gain in area and population in under-served areas, i.e., less than five aural services.

10. WHEREFORE, for the foregoing reasons, Keymarket Licenses, LLC respectfully requests that the Commission amend its Table of Allotments to upgrade Channel 252A to Channel 252B1 at Duquesne, Pennsylvania and modify the license of Radio Station WOGI(FM) accordingly and reallocate Channel 251B from Altoona, Pennsylvania to Williamsburg, Pennsylvania and modify the license of Radio Station WFGY(FM), Altoona, Pennsylvania.

Respectfully submitted,

KEYMARKET LICENSES LLC

By: 
Allan G. Moskowitz
Its Attorney

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January 17, 2003



**STATEMENT OF WILLIAM J. GETZ
IN SUPPORT OF A PETITION TO AMEND
THE FM TABLE OF ALLOTMENTS**

I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized by Keymarket Licenses, LLC, licensee of WOGL(FM), Duquesne, PA, to prepare this statement and the supporting exhibits in support of a Petition to Amend the FM Table of Allotments, Section 73.202(b) of the FCC Rules. The petitioner requests that Section 73.202(b) of the FCC Rules be modified in the following manner:

	<u>Present</u>	<u>Proposed</u>
Altoona, PA	251B, 26181	261B1
Williamsburg, PA	----	251B
Duquesne, PA	252A	25281

Radio station WOGL(FM), Duquesne, PA, is currently licensed to operate on Channel 252A (FCC File No. BLH-20020311AAE). Radio station WFGY(FM), Altoona, PA, is currently licensed to operate on Channel 251B (FCC File No. BLH-19961029KE). The licensee of WFGY(FM) consents to the changes proposed herein [See Legal Exhibit].

STATEMENT OF WILLIAM J. GETZ
PAGE 2

This Petition for Rulemaking will allow WOGL(FM) to upgrade to a Class B1 facility with the two modifications proposed herein. To accommodate the proposed upgrade at WOGL(FM), WFGY(FM) may be relocated to provide a first local service to Williamsburg, Pennsylvania (2000 population: 1,345 persons). Full service radio stations WRTA(AM) [1240 kHz], WFBG(AM) [1290 kHz], WVAM(AM) [1430 kHz] and WPRR(FM) [100.1 MHz] will remain to provide local service to Altoona. In addition, the Petitioner herein requests a change in the allotment reference coordinates for a vacant, open allotment at Meyersdale, Pennsylvania (Channel 253A).

In accordance with the requested modifications to the FM Table of Allotments, the Petitioner requests that the licenses of stations WOGL(FM) and WFGY(FM) be modified to specify operation on channels 252B1 at Duquesne and 2518 at Williamsburg, respectively.

ALLOCATION CONSIDERATIONS

Channel 252B1 in lieu of Channel 252A, Duquesne, PA

An engineering study of all pertinent allotments, assignments and applications revealed that WOGL(FM), Duquesne, PA, (Channel 252A) can be upgraded to a Class B1 facility with the changes proposed herein. The allotment reference coordinates for Channel 252B1 at Duquesne are **40° 14' 33" N.L. and 79° 52' 37" W.L.** This represents a site restriction of 15.5 kilometers from Duquesne (the Class B1 city-grade distance is 23.2 kilometers). The Duquesne allotment reference site meets allotment standards, the minimum spacing

STATEMENT OF WILLIAM J. GETZ
PAGE 3

requirements of §73.207 and the city-grade coverage requirements of §73.315 of the FCC rules. Additional public interest benefits associated with the proposed arrangement of allotments are discussed below.

Channel 251B. Williamsburg, PA, in lieu of Channel 251B. Altoona, PA

To accommodate the upgrade at WOGI(FM), co-owned radio station WGFY(FM) may relocate and be reallocated to Williamsburg, Pennsylvania, as the community's first local service. An engineering study of all pertinent allotments, assignments and applications revealed that WFGY(FM), Altoona, PA, (Channel 251B) can be reallocated to Williamsburg, Pennsylvania, with a site restriction of 6.5 kilometers. The allotment reference coordinates for Channel 251B at Williamsburg are **40° 24' 17" N.L. and 78° 10' 49" W.L.** The Williamsburg allotment reference site meets allotment standards, the minimum spacing requirements of §73.207 and the city-grade coverage requirements of §73.315 of the FCC rules. In addition to providing a first local service to Williamsburg, additional public interest benefits associated with the proposed arrangement of allotments are discussed below.

Change in Allotment Reference Coordinates. Channel 253A. Meyersdale, PA

To accommodate the changes proposed above, the petitioner identified an alternate allotment reference site for a vacant allotment at Meyersdale, PA. It is requested herein to modify the allocation reference coordinates for Channel 253A at Meyersdale to **39° 40' 39"**

STATEMENT OF WILLIAM J. GETZ
PAGE 4

N.L. and 79° 01' 25" W.L. This represents a site restriction of 15.0 kilometers from Meyersdale (the Class A city-grade distance is 16.2 kilometers). The new Meyersdale allotment reference site meets allotment standards, the minimum spacing requirements of §73.207 and the city-grade coverage requirements of §73.315 of the FCC Rules. Because the Meyersdale allotment is vacant and does not have an operating facility associated with it, the proposed change in reference coordinates has no effect on existing aural services to the public (i.e. there are no gain areas or loss areas associated with the Meyersdale proposal).

PUBLIC INTEREST BENEFITS

Table 1, attached, is a summary of the public interest benefits associated with the proposed arrangement of allotments. Exhibit 1 is a map which shows gain and loss areas associated with the proposed WFGY(FM) reallocation and relocation. Exhibit 2 is a map which shows the gain and loss areas associated with the WOGL(FM) upgrade and relocation. Other aural services available to the gain and loss areas are also shown on Exhibit 1 and Exhibit 2.

As shown on Table 1, the change in the proposed arrangement of allotments will extend service to a substantial gain area (2,314 km²) and to a substantial population (156,479 persons). Moreover, as shown in Table 1 (page 2 of 2), the proposed arrangement of allotments add a new aural service to a large, presently underserved, area of 1,149 km². A net of 19,382 persons presently within an underserved area will gain an aural service as a

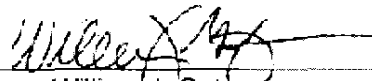
STATEMENT OF WILLIAM J. GETZ
PAGE 5

result of the instant proposal.

For the FM stations considered in the gain/loss studies, the 60 dBu coverage is based on maximum Class circles assuming uniform terrain and omnidirectional signals operating at maximum facilities for all classes of stations except Class C stations.¹ For Class A AM stations, the coverage contour considered in the gain/loss studies is the 0.5 mV/m groundwave contour. For all other AM stations the coverage contour considered in the gain/loss studies is the nighttime interference-free groundwave contour.

This statement and the supporting exhibits were prepared by me or under my direct supervision and are believed to be true and correct

DATED: January 15, 2003


William J. Getz

¹ See Report and Order in MM Docket No. 99-207, RM-9626 (Amendment of Section 73.202(b), Table of Affolmenfs, Kuna, Idaho). Released March 17, 2000.

**Public Interest Showing Summary
Proposed Rulemaking
January, 2003**

WFGY, Altoona to Williamsburg, PA

Gain and Loss Area created by reallocation and proposed change in reference coordinates.

<u>Minimum Number of Aural Services Available</u>	<u>Maximum Number of Aural Services Exhibit 1</u>	<u>Description of Area Under Study See Map - Exhibit 1</u>	<u>Area (km²)</u>	<u>Population 2000 Census</u>
1	17	WFGY Gain Area	2,932	98,396
6	19	WFGY Loss Area	2,932	166,693
		WFGY Net Gain/(Loss) Area	0	
		WFGY Net Population Gain/(Loss)		(68,297)

WOGI, Duquesne, PA

Gain and Loss Areas created by upgrade and change in reference coordinates

<u>Minimum Number of Aural Services Available</u>	<u>Maximum Number of Aural Services Exhibit 2</u>	<u>Description of Area Under Study See Map - Exhibit 2</u>	<u>Area (km²)</u>	<u>Population 2000 Census</u>
4	28	WOGI Gain Area	3,103	436,789
19	25	WOGI Loss Area	789	212,013
		WOGI Net Gain/(Loss) Area	2,314	
		WOGI Net Population Gain/(Loss)		224,776

* Note the Maximum Number of Aural Services indicates the maximum number of aural services represented on the attached Gain and Loss Area Exhibits. Most likely there are more aural services available to the Gain/Loss areas than "Maximum" number indicated above. The "Minimum Number of Aural Services Available" indicated above is believed to be an absolute minimum.

**Public Interest Showing Summary
Proposed Rulemaking
January, 2003**

Net Gain Area and Loss Area Statistics

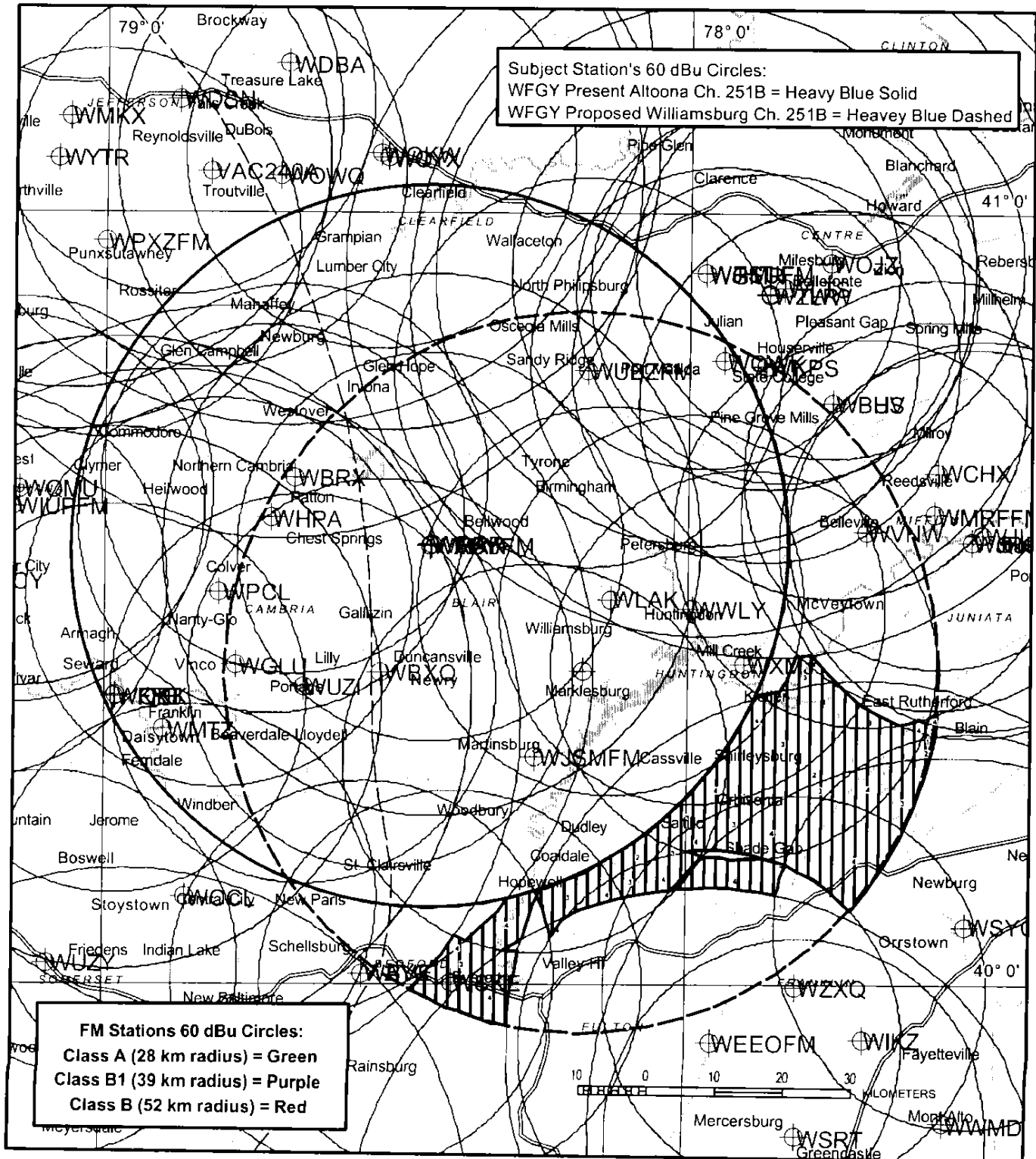
Total Gain Area	=	6,035	km ²
Total Loss Area	=	3,721	km ²
NET	=	2,314	km² GAIN AREA

Total Population in Gain Area	=	535,185	persons
Total Population in Loss Area	=	378,706	persons
NET	=	156,479	Population GAINED

Total Underserved Area which will receive a new aural service	=	1,149	km ²
New Underserved Area	=	N/A	km ²
NET	=	1,149	km² Underserved Area which will GAIN an aural service

Total population in underserved area which will receive a new aural service	=	19,382	persons
Total population in new underserved area	=	N/A	persons
NET	=	19,382	persons in Underserved Area will GAIN an aural service

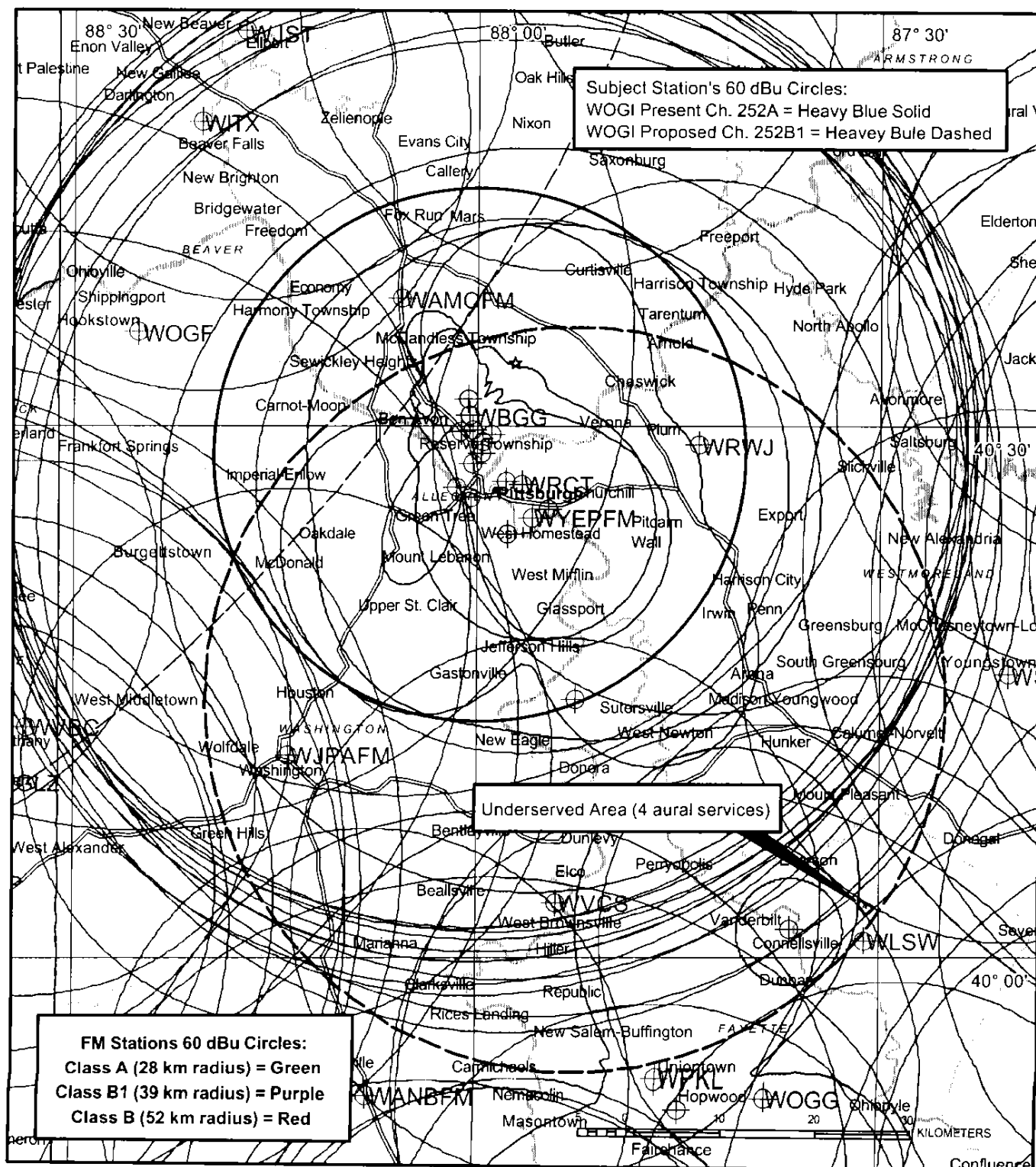
* Class A AM station KDKA provides 0.5 mV/m groundwave coverage portions of the gain and loss area (see Black dashed contour). No other AM stations were identified which provide nighttime interference free coverage to the underserved gain area.



The presently underserved area of 1,148 km², containing a population of 19,260 persons, within the WFGY gain area is highlighted.

**OTHER AURAL SERVICES
AVAILABLE TO WFGY
GAIN AND LOSS AREAS
JANUARY, 2003**

* Class A AM station KDKA provides 0.5 mV/m groundwave coverage to the entire gain and loss area. The nighttime interference free coverage contours of other AM stations are shown in black



The entire loss area is well served by at least 5 aural services
The presently underserved area of 1.4 km², containing
a population of 122 persons, within the WOGI gain area
will be eliminated.

OTHER AURAL SERVICES
AVAILABLE TO WOGI
GAIN AND LOSS AREAS
JANUARY, 2003